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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,151	07/13/2001	John Border	PD-201019	4618

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EXAMINER

TRAN, NGHI V

ART UNIT	PAPER NUMBER
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2151

DATE MAILED: 09/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/905,151

Applicant(s)

BORDER ET AL.

Examiner

Nghi V Tran

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) * | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>08/05/03</u> * | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4, 7-10, 14-17, and 20-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Danielson et al., U.S. Patent Number 6,473,795 (hereinafter Danielson).

Taking claim 1 as an exemplary claim, Danielson teaches a method for monitoring a communication system (figures 1-4) that includes a platform configured to perform a plurality of performance enhancing functions, the method comprising:

- receiving information relating to configuration parameters as specified in a profile of the platform (column 6, lines 50-67 and figures 3-4);
- selectively modifying the profile in response to the received information (column 7, lines 20-40, column 16, lines 35-52, and figure 4); and

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- forwarding the modified profile to the platform (column 6, lines 19-32 and figures 3-4).

With respect to claim 2, Danielson further teaches the modified profile is forwarded as a single file (column 8, lines 23-34).

With respect to claim 3, Danielson further teaches the communication system is partitioned into a plurality of network management domains to control access network management information (figure 1, column 1, lines 45-66, and lines 20-52).

With respect to claim 4, Danielson further teaches the method further comprising:

- maintaining a default profile for the platform (column 9, lines 10-28).

Claims 7-10, 14-17, and 20-23 are also rejected for the same reasons set forth in claims 1-4.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5, 11, 18, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Danielson as applied to claims 1-4, 7-10, 14-17, and 20-23 above, and further in view of Feltcher et al., U.S. Patent Number 6,058,243 (hereinafter Fletcher).

Taking claim 5 as an exemplary claim, Danielson fails to teach the profile in the receiving step includes at least one of a TCP spoofing kernel parameter, a backbone

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protocol kernel parameter, a prioritization kernel parameter, and a path selection parameter. However, Feltcher discloses a network's alert including at least one of a TCP spoofing, a backbone protocol, a prioritization or a path selection parameter (column 4, lines 11-65 and figures 1-3). It would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify Danielson in view of Feltcher by specifying more detail of the profile in the receiving step. The motivation for doing so would have been obvious because the monitoring and reporting of data traffic statistics in LAN or WAN reduce the network bandwidth, optimize the network path, track network volume and increase the network performance with minimum cost (column 4, lines 34-64).

Claims 11, 18, and 24 are also rejected for the same reasons set forth in claim 5.

6. Claim 6, 12-13, 19, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Danielson as applied to claims 1-4, 7-10, 14-17, and 20-23 above, and further in view of Touboul, U.S. Patent Number 6,658,465.

Taking claim 6 as an exemplary claim, Danielson fails to teach the method further comprising: selectively storing the information at least within the platform and within a database that is separate from the platform. However, Touboul discloses event log database storing within the platform (item 44 of figure 4) and message log database storing separate from the platform (item 45 of figure 4). It would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify Danielson in view of Touboul by storing information within the platform or separate from the platform. The motivation for doing so would have been obvious because the

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database enables developers or administrators easily to create, modify, or delete records (column 14, lines 4-13).

Claims 12-13, 19, and 25 are also rejected for the same reasons set forth in claim 6.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. "System for network resource management," U.S. Patent Number 6,219,708, by Martenson.

b. "System and method for dynamically controlling remote processes from a performance monitor," U.S. Patent Number 5,432,932, by Chen et al.

c. "Multiple facility operating system architecture," U.S. Patent Number 5,485,579, by Hitz et al.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi V Tran whose telephone number is (571) 272-4067. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571) 272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nghi Tran



FRANTZ JEAN
PATENT EXAMINER